

MARK J. BENNETT 2672  
Attorney General of Hawaii

2007 JAN 25 PM 2:05

ROBYN M. KUWABE 3001  
Deputy Attorney General  
Department of Attorney  
General, State of Hawaii  
Labor Division  
425 Queen Street  
Honolulu, Hawaii 96813  
Telephone: 586-1450

HAWAII LABOR  
RELATIONS BOARD

Attorneys for Director of Labor  
and Industrial Relations

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of	)	CASE NO. OSH 2006-18
DIRECTOR, DEPARTMENT OF LABOR	)	(Inspection No. 309458107)
AND INDUSTRIAL RELATIONS,	)	
	)	STIPULATION AND SETTLEMENT
Complainant,	)	AGREEMENT; EXHIBIT A; APPROVAL
	)	AND ORDER
vs.	)	
	)	
VECTOR RESEARCH, INC.,	)	
	)	
Respondent.	)	
	)	

STIPULATION AND SETTLEMENT AGREEMENT

Complainant Director of Labor and Industrial Relations ("Director") and  
Respondent Vector Research, Inc. ("Respondent") having reached a full and complete settlement  
of the above-captioned contested case presently pending before the Hawaii Labor Relations  
Board ("Board") stipulate and agree as follows:

On or about April 10, 2006, the Director, by and through the State of Hawaii's  
Occupational Safety and Health Division ("HIOSH"), inspected Respondent's workplace located  
at Field Office at Old Plantation Irrigation Office, Mana, Kekaha, Hawaii 96752.

As a consequence of said inspection, the Director issued a Citation and Notification of Penalty on July 11, 2006 ("Citation") to Respondent alleging violations of the Hawaii Occupational Safety and Health Standards and assessed an aggregate penalty of \$1,500.00. *See* Exhibit A.

Respondent timely contested the Citation.

THEREFORE, to avoid the expense of litigation and to compromise and settle the above-captioned case, the parties, by and through their respective representatives, stipulate and agree as follows:

1. The Board has jurisdiction over this contested case pursuant to section 396-11, Hawaii Revised Statutes ("HRS").

2. At all relevant times, Respondent maintained a workplace at Field Office at Old Plantation Irrigation Office, Mana, Kekaha, Hawaii 96752.

3. At all relevant times, Respondent was an employer, as defined in HRS § 396-3, and employed employees, as defined in HRS § 396-3, and was therefore subject to the requirements of HRS chapter 396, the Hawaii Occupational Safety and Health Law.

4. Respondent has abated each violation listed in the Citation in compliance with the abatement requirements under Hawaii Administrative Rule § 12-51-22.

5. The violations and corresponding characterizations as stated in the Citation are affirmed. *See* Exhibit A.

6. The Director reduces the aggregate penalty from \$1,500.00 to \$750.00 which shall be paid in full by check to the Director of Budget and Finance upon the execution of this Agreement.

7. Except for the stipulated amendments described above, the Citation is confirmed in all other respects and upon approval by the Board, this Agreement and the Citation, as amended, shall become a final order of the Director.

8. By entering into this Agreement, Respondent does not admit that it violated the cited standards for any litigation or purpose other than proceedings under the Hawaii Occupational Safety and Health Law.

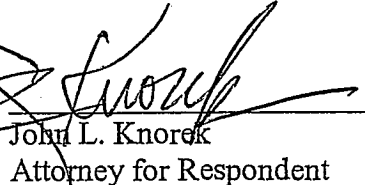
9. Respondent shall post a copy of this Agreement and Order in a prominent place at or near the location of the posting of the Citation, and the Agreement and Order shall remain posted for three working days (excluding weekends and State holidays) only if employees remain at or near the location of the posting of the Citation.

10. Respondent shall continue to comply with HRS chapter 396, the Hawaii Occupational Safety and Health Law, and the related rules, provided Respondent is continuing to operate in Hawaii.

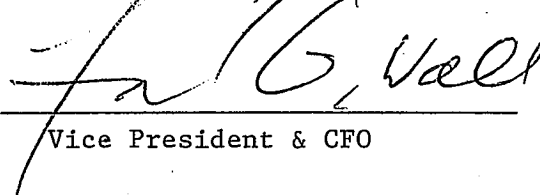
11. Nothing in this Agreement shall bar the Director from taking any action regarding future acts or practices by Respondent which may be alleged to violate HRS chapter 396, the Hawaii Occupational Safety and Health Law, or the related rules.

DATED: Honolulu, Hawaii, January 25, 2007.


APPROVED AS TO FORM:

  
\_\_\_\_\_  
John L. Knorek  
Attorney for Respondent

VECTOR RESEARCH, INC.

By:   
\_\_\_\_\_  
Its Vice President & CFO

APPROVED AS TO FORM:


  
\_\_\_\_\_  
ROBYN M. KUWABE  
Deputy Attorney General  
Attorney for Director of Labor and  
Industrial Relations, State of Hawaii

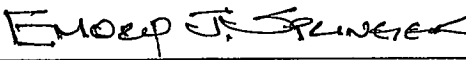
DIRECTOR OF LABOR AND  
INDUSTRIAL RELATIONS


  
\_\_\_\_\_  
NELSON B. BEFITEL

APPROVED AND SO ORDERED BY  
HAWAII LABOR RELATIONS BOARD:

ORDER NO. 233

  
\_\_\_\_\_  
BRIAN K. NAKAMURA, Chair

  
\_\_\_\_\_  
EMORY J. SPRINGER, Member

  
\_\_\_\_\_  
SARAH R. HIRAKAMI, Member



State of Hawaii  
Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division  
830 PUNCHBOWL STREET, ROOM 425  
Honolulu, HI 96813  
Phone: (808) 586-9090 FAX: (808) 586-9104



Certified Number: 7004 2510.0003 2979 4179

## Citation and Notification of Penalty

To:  
Vector Research Inc  
and its successors  
P.O. Box 160  
Kekaha, HI 96752

Inspection Number: 309458107 (Yunlin Huang)  
Inspection Date(s): 04/10/2006 - 04/10/2006  
Issuance Date: 07/11/2006  
OSHSO ID: Z5490  
Optional Report No.: 0630  
Inspection Type: Complaint  
Scope of Inspection: Comprehensive Inspection

Inspection Site:  
Field Office at Old Plantation Irrigation Office,  
Mana  
Kekaha, HI 96752

*The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.*

This Citation and Notification of Penalty describes violations of the Hawaii Occupational Safety and Health Law. The penalty(ies)-listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties, unless within 20 calendar days from your receipt of this Citation and Notification of Penalty, you mail a notice of contest to the State of Hawaii Occupational Safety and Health Division (HIOSH) at the address shown above. Please refer to the enclosed booklet (Employer Rights and Responsibilities Following a HIOSH Inspection) which outlines your rights and responsibilities and which should be read in conjunction with this form. Issuance of this Citation does not constitute a finding that a violation of the Law has occurred unless there is a failure to contest as provided for in the Law or, if contested, unless this Citation is affirmed by the Hawaii Labor Relations Board (HLRB) or a court.

**Posting** - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and State holidays), whichever is longer. The penalty dollar amounts need not be posted and may be marked out or covered up prior to posting.

**Informal Conference** - An informal conference is not required. However, if you wish to have such a conference you may request one with the Administrator during the 20 calendar day contest period. During such an informal conference, you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty(ies).

If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Administrator within 20 calendar days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the page 4, Notice to Employees next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

**Employers' Right to Contest** - You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest penalties and/or abatement dates without contesting the underlying violations. Unless you inform the Administrator in writing that you intend to contest the citation(s) and/or penalty(ies) within 20 calendar days after receipt, the citation(s) and the penalty(ies) will become a final order of the Department of Labor and Industrial Relations and may not be reviewed by any court or agency. Once a letter of contest is received, it becomes the jurisdiction of the HLRB.

**Penalty Payment** - Penalties are due within 20 calendar days of receipt of this notification unless contested. Make your check or money order payable to "Director of Budget and Finance." Please indicate the Inspection Number on the remittance.

HIOSH does not agree to any restrictions or conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

**Notification of Corrective Action** - For each violation which you do not contest, you are required by Section 12-51-22 to submit an Abatement Certification to HIOSH. The certification must be sent by you within 5 calendar days of the abatement date indicated on the citation. For Willful and Repeat violations, documents (example: photos, copies of receipts, training records, etc.) demonstrating that abatement is complete must accompany the certification. Where the citation is classified as Serious and the citation states that abatement documentation is required, documents such as those described above are required to be submitted along with the abatement certificate. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item.

All abatement verification documents must contain the following information: 1) Your name and address; 2) the inspection number (found on the front page); 3) the citation and citation item number(s) to which the submission relates; 4) a statement that the information is accurate; 5) the signature of the employer or employer's authorized representative; 6) the date the hazard was corrected; 7) a brief statement of how the hazard was corrected; and 8) a statement that affected employees and their representatives have been informed of the abatement.

The law also requires a copy of all abatement verification documents, required by Section 12-55-22 to be sent to HIOSH, also be posted at the location where the violation appeared and the corrective action took place.

**Employer Discrimination Unlawful** - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 60 days after the discrimination occurred with the Hawaii Occupational Safety and Health Division at the address shown above.

**Employer Rights and Responsibilities** - The enclosed booklet (Employer Rights and Responsibilities Following a HIOSH Inspection) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

**Employees' Right to Contest** - The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the Hawaii Occupational Safety and Health Division at the address shown above and postmarked within 20 calendar days of the receipt by the employer of this Citation and Notification of Penalty.

**Inspection Activity Data** - you should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to your inspection will be available 30 calendar days after the Citation Issuance Date. You are encouraged to review the information concerning your establishment at [WWW.OSHA.GOV](http://WWW.OSHA.GOV). If you have any dispute with the accuracy of the information displayed, please contact this office.





## NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with HIOSH to discuss the citation(s) issued on 07/11/2006. The conference will be held at the HIOSH office located at 830 PUNCHBOWL STREET, ROOM 425, Honolulu, HI 96813 on \_\_\_\_\_ at \_\_\_\_\_. Employees and/or representatives of employees have a right to attend an informal conference.

# STATE OF HAWAII

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division

Inspection Number: 309458107  
Inspection Dates: 04/10/2006 - 04/10/2006



830 Punchbowl Street, Room 425  
Honolulu, HI 96813

Issuance Date: 07/11/2006

## Citation and Notification of Penalty

Company Name: Vector Research Inc  
Inspection Site: Field Office at Old Plantation Irrigation Office,, Mana, Kekaha, HI 96752

Citation 1 Item 1 Type of Violation: **Serious**

29 CFR 1910.132(d)(1) [Refer to chapter 12-64.1, HAR] was violated because:

The employer did not have a hazard assessment and equipment selection to provide necessary eye, skin, and body protection for the employees who were exposed to the restricted use pesticides (e.g., Nemacur 3) thus exposing the employees to serious health hazards from the chemicals.

29 CFR 1910.132(d)(1) states "The employer shall assess the workplace to determine if hazards are present, or are likely to be present, which necessitate the use of personal protective equipment (PPE). If such hazards are present, or likely to be present, the employer shall: (i) Select, and have each affected employee use, the types of PPE that will protect the affected employee from the hazards identified in the hazard assessment; (ii) Communicate selection decisions to each affected employee; and (iii) Select PPE that properly fits each affected employee. Note: Non-mandatory Appendix B contains an example of procedures that would comply with the requirement for a hazard assessment."

Location: Job sites

Date By Which Violation Must be Abated:  
Penalty:

07/17/2006  
\$750.00

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

# STATE OF HAWAII

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division

Inspection Number: 309458107  
Inspection Dates: 04/10/2006 - 04/10/2006



830 Punchbowl Street, Room 425  
Honolulu, HI 96813

Issuance Date: 07/11/2006

## Citation and Notification of Penalty

Company Name: Vector Research Inc  
Inspection Site: Field Office at Old Plantation Irrigation Office,, Mana, Kekaha, HI 96752

Citation 1 Item 2 Type of Violation: **Serious**

29 CFR 1910.134(c)(1) [Refer to chapter 12-64.1, HAR] was violated because:

The employer did not have a written, effective respiratory protection program for the employees who were exposed to restricted use pesticides thus exposing the employees to the health hazards from the chemicals.

29 CFR 1910.134(c)(1) states "In any workplace where respirators are necessary to protect the health of the employee or whenever respirators are required by the employer, the employer shall establish and implement a written respiratory protection program with worksite-specific procedures. The program shall be updated as necessary to reflect those changes in workplace conditions that affect respirator use. The employer shall include in the program the following provisions of this section, as applicable: (i) Procedures for selecting respirators for use in the workplace; (ii) Medical evaluations of employees required to use respirators; (iii) Fit testing procedures for tight-fitting respirators; (iv) Procedures for proper use of respirators in routine and reasonably foreseeable emergency situations; (v) Procedures and schedules for cleaning, disinfecting, storing, inspecting, repairing, discarding, and otherwise maintaining respirators; (vi) Procedures to ensure adequate air quality, quantity, and flow of breathing air for atmosphere-supplying respirators; (vii) Training of employees in the respiratory hazards to which they are potentially exposed during routine and emergency situations; (viii) Training of employees in the proper use of respirators, including putting on and removing them, any limitations on their use, and their maintenance; and (ix) Procedures for regularly evaluating the effectiveness of the program."

Location: Establishment

**Date By Which Violation Must be Abated:**

**08/14/2006**

**Penalty:**

**\$750.00**

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

# STATE OF HAWAII

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division

Inspection Number: 309458107  
Inspection Dates: 04/10/2006 - 04/10/2006



830 Punchbowl Street, Room 425  
Honolulu, HI 96813

Issuance Date: 07/11/2006

## Citation and Notification of Penalty

Company Name: Vector Research Inc  
Inspection Site: Field Office at Old Plantation Irrigation Office,, Mana, Kekaha, HI 96752

Citation 2 Item 1 Type of Violation: Other

29 CFR 1910.1200(e)(1) [Refer to chapter 12-203.1, HAR] was violated because:

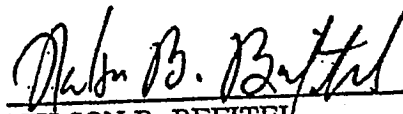
The employer did not have a written hazard communication program while the pesticides were stored and used for the work thus exposing the employees to potential chemical hazards. This is an administrative violation.

29 CFR 1910.1200(e)(1) states "Employers shall develop, implement, and maintain at each workplace, a written hazard communication program which at least describes how the criteria specified in paragraphs (f), (g), and (h) of this section for labels and other forms of warning, material safety data sheets, and employee information and training will be met, and which also includes the following: (i) A list of the hazardous chemicals known to be present using an identity that is referenced on the appropriate material safety data sheet (the list may be compiled for the workplace as whole or for individual work areas); and (ii) The methods the employer will use to inform employees of the hazards of non-routine tasks (for example, the cleaning of the reactor vessels), and the hazards associated with chemicals contained in unlabeled pipes in their work areas."

Location: Establishment

Date By Which Violation Must be Abated:  
Penalty:

08/03/2006  
\$.00

  
NELSON B. BEFITEI  
DIRECTOR

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

State of Hawaii  
Department of Labor and Industrial Relations  
HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION  
830 PUNCHBOWL STREET, ROOM 425  
Honolulu, HI 96813

### SUMMARY OF PENALTIES

Company Name: Vector Research Inc  
Inspection Site: Field Office at Old Plantation Irrigation Office,  
Mana  
Kekaha, HI 96752  
Issuance Date: 07/11/2006

Summary of Penalties for Inspection Number	309458107
Citation 01, Serious	= \$1,500.00
Citation 02, Other	= \$0.00
TOTAL PENALTIES	= \$1,500.00

Make check or money order payable to the "Director of Budget and Finance." Please indicate the inspection number and dba, if company name is different, on the remittance. A fee of \$15.00 will be charged for any returned checks.

If receipt is desired, please indicate with payment; otherwise, your cancelled check will be your receipt.

# Search Results

Label/Receipt Number: 7004 2510 0003 2979 417.  
Status: Delivered

Your item was delivered at 1:17 pm on July 13, 2006 in KEKAHA, HI 96752.

[Additional Details >](#) [Return to USPS.com Home >](#)

## Notification Options

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<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Service <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Registered Mail <input type="checkbox"/> Insured Mail <input type="checkbox"/> Signature Required <input type="checkbox"/> Signature Confirmation <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Restricted Delivery <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>1. Article Addressed to: 309458107</p> <p>Mr. Robert Barkevich General Manager Vector Research, Inc. P.O. Box 160 Kekaha, Hawaii 96752</p>		<p>B. Received by (Printed Name) <u>Robert Barkevich</u> <u>7/13/06</u></p> <p>C. Date of Delivery <u>7/13/06</u></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If YES, enter delivery address below:</p>	
<p>2. Article Number (Transfer from service label)</p>		<p>3. Service Type</p> <p><input type="checkbox"/> Certified Mail <input type="checkbox"/> Registered Mail <input type="checkbox"/> Insured Mail <input type="checkbox"/> Signature Required <input type="checkbox"/> Signature Confirmation <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Restricted Delivery <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>PS Form 3811, February 2004</p>		<p>Domestic Return Receipt</p>	

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Restricted Delivery Fee (Endorsement Required)	
<b>Total Postage &amp; Fees</b>	<b>\$ 5.12</b>
<p>309458107</p> <p><b>Vector Research, Inc.</b></p> <p>P.O. Box 160</p> <p>Kekaha, Hawaii 96752</p>	
PS Form 3800, June 2002	